

February 3, 2015

VIA CERTIFIED MAIL

A.L. Gilbert Company
Managing Agent
304 North Yosemite Avenue
Oakdale, California 95361

VIA UNITED STATES MAIL

Michael D. Schonhoff
Registered Agent for A.L. Gilbert Company
304 North Yosemite Avenue
Oakdale, California 95361

Re: Notice of Violation and Intent to File Suit Under the Clean Water Act

To Whom It May Concern:

I am writing on behalf of California Sportfishing Protection Alliance ("CSPA") regarding violations of the Clean Water Act¹ and California's General Industrial Storm Water Permit² occurring at the A.L. Gilbert Company facility with its main address at 304 North Yosemite Avenue, Oakdale, California 95361 (hereinafter the "A.L. Gilbert Facility" or "Facility"). The purpose of this letter is to put the owners and operators of the A.L. Gilbert Facility on notice of the violations of the Storm Water Permit that have occurred, and continue to occur, at the Facility including, but not limited to, the discharges of polluted storm water from the Facility into local water bodies. Violations of the Storm Water Permit are violations of the Clean Water Act. As explained below, the owner(s) and/or operator(s) of the A.L. Gilbert Facility are liable for violations of the Storm Water Permit and the Clean Water Act.

¹ Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.*

² National Pollution Discharge Elimination System ("NPDES") General Permit No. CAS000001 [State Water Resources Control Board] Water Quality Order No. 92-12-DWQ, as amended by Order No. 97-03-DWQ ("Storm Water Permit").

Section 505(b) of the Clean Water Act, 33 U.S.C. § 1365(b), requires that sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Clean Water Act, 33 U.S.C. § 1365(a), a citizen must give notice of his/her intention to sue. Notice must be given to the alleged violator, the Administrator of the United States Environmental Protection Agency ("EPA"), the Regional Administrator of the EPA, the Executive Officer of the water pollution control agency in the State in which the violations occur, and, if the alleged violator is a corporation, the registered agent of the corporation. See 40 C.F.R. § 135.2. This letter is being sent to you as the A.L. Gilbert Facility owner and/or operator, or as the registered agent for this entity. By this letter, issued pursuant to 33 U.S.C. §§ 1365(a) and (b) of the Clean Water Act, CSPA puts the Facility owner and/or operator on notice that after the expiration of sixty (60) days from the date of this letter, we intend to file an enforcement action in federal court for violations of the Storm Water Permit and the Clean Water Act at the Facility.

I. Background.

A. California Sportfishing Protection Alliance.

CSPA is a 501(c)(3) non-profit public benefit conservation and research organization. CSPA was established in 1983 for the purpose of conserving, restoring, and enhancing the state's water quality, wildlife, fishery resources, aquatic ecosystems, and associated riparian habitats. CSPA accomplishes its mission by actively seeking federal, state, and local agency implementation of environmental regulations and statutes and routinely participates in administrative, legislative, and judicial proceedings. When necessary, CSPA directly initiates enforcement actions on behalf of itself and its members to protect public trust resources. CSPA's office is located at 3536 Rainier Avenue, Stockton, California 95204.

The owners and/or operators of the A.L. Gilbert Facility have discharged, and continue to discharge, polluted storm water to the Stanislaus River, which flows to the San Joaquin River and then to the Sacramento-San Joaquin River Delta ("Delta") (collectively "Receiving Waters"). The Facility's discharges of polluted storm water degrade water quality and harm aquatic life in the Receiving Waters. Members of CSPA live, work, and/or recreate near the Receiving Waters. For example, CSPA members use and enjoy the Receiving Waters for fishing, boating, swimming, bird watching, picnicking, viewing wildlife, and engaging in scientific study. The unlawful discharge of pollutants from the A.L. Gilbert Facility impairs each of these uses. Further, the Facility's discharges of polluted storm water are ongoing and continuous. As a result, CSPA's members' use and enjoyment of the Receiving Waters has been and continues to be adversely impacted. Thus, the interests of CSPA's members have been, are being, and will continue to be adversely affected by the failure of the Facility owner and/or operator to comply with the Storm Water Permit and the Clean Water Act.

B. The Owner and/or Operator of the A.L. Gilbert Facility.

Information available to CSPA indicates that the A.L. Gilbert Company is an active corporation registered to operate in California since 1975. Information available to CSPA indicates that the A.L. Gilbert Company has been an owner and/or operator of the Facility since at least 1992. The A.L. Gilbert Company will herein be referred to as the A.L. Gilbert Facility

Owner and/or Operator.

The Registered Agent for A.L. Gilbert Company is Michael D. Schonhoff located at 304 North Yosemite Avenue, Oakdale, California 95361.

C. The A.L. Gilbert Facility's Coverage Under the Storm Water Permit.

A Notice of Intent ("NOI") to obtain Storm Water Permit coverage for dairy feed manufacturing, vehicle maintenance, material storage, and trucking at the A.L. Gilbert Facility was first submitted to the State Water Resources Control Board ("State Board") on March 25, 1992. The NOI lists the facility address as 304 N. Yosemite Avenue, Oakdale, California 95361. The NOI describes the facility as consisting of approximately 7 acres 64% of which is impervious. Upon receipt of the NOI, the State Board assigned the Facility Waste Discharger Identification number 5S50I001719.

The NOI lists the Standard Industrial Classification ("SIC") codes for the A.L. Gilbert Facility as 2048 (prepared feeds manufacturing) and 4212 (local trucking without storage). The Storm Water Permit regulates SIC code 2048 facilities where industrial materials, equipment, or activities are exposed to storm water. *See* Storm Water Permit, Attachment 1, ¶ 10. The Storm Water Permit regulates SIC code 4212 facilities which have vehicle maintenance shops and equipment cleaning operations, and the portions of the facilities involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication) or other operations identified in the Storm Water Permit as associated with industrial activities. *See* Storm Water Permit, Attachment 1, ¶ 8.

D. Storm Water Pollution and Its Impacts on the Sacramento-San Joaquin Delta Watershed.

With every significant rainfall event, millions of gallons of polluted rainwater, originating from industrial facilities such as the A.L. Gilbert Facility, pour into storm drains and surface waters in California. The consensus among agencies and water quality specialists is that storm water pollution accounts for more than half of the total pollution entering surface waters each year. This discharge of pollutants, which includes discharges from industrial facilities, contributes to the impairment of downstream waters and aquatic dependent wildlife.

Polluted storm water discharges from prepared feed manufacturing and trucking facilities can carry pollutants such as: total suspended solids ("TSS"); total organic compounds ("TOC"); pH-affecting substances; biological oxygen demand ("BOD"); oil and grease ("O&G"); antifreeze; and heavy metals, including arsenic, cadmium, chromium, copper, cobalt, iron, lead, magnesium, and zinc. Many of these pollutants are on the list of chemicals published by the State of California as known to cause cancer, birth defects, and developmental or reproductive harm. Polluted storm water discharges to surface waters pose carcinogenic and reproductive toxicity threats to the public and adversely affect the aquatic environment.

The California Regional Water Quality Control Board, Central Valley Region ("Regional Board") has issued its Water Quality Control Plan for the Sacramento and San Joaquin River

Basins ("Basin Plan"). The Basin Plan identifies the "Beneficial Uses" of water bodies in the region. The Beneficial Uses for the waters that receive polluted storm water discharges from the A.L. Gilbert Facility include: Municipal and Domestic Supply, Agricultural Supply, Industrial Processes Supply, Industrial Service Supply, Water Contact Recreation, Non-contact Water Recreation, Warm Freshwater Habitat, Cold Freshwater Habitat, Migration, Spawning, Wildlife Habitat, Navigation. *See* Basin Plan at Table II-1.

A water body is impaired pursuant to section 303(d) of the Clean Water Act, 33 U.S.C. § 1313(d), when its Beneficial Uses are not being achieved due to the presence of one or more pollutants. Downstream of the Facility, the Stanislaus River is impaired by temperature, unknown toxicity, and mercury, among other pollutants.³ Downstream of the A.L. Gilbert Facility, the Delta is impaired by, among other things, various pesticides, mercury, and unknown toxicity.⁴ Polluted storm water discharges from industrial facilities, such as the A.L. Gilbert Facility, contribute to the impairment of surface waters, including the Receiving Waters, and harm aquatic dependent wildlife.

E. The Industrial Activities at the A.L. Gilbert Facility and Associated Pollutants.

As reported by the A.L. Gilbert Facility Owner and/or Operator, the Facility consists of the North Mill and the South Mill, which include the following: grain truck load-out area; grain unloading area; stored bulk oil location; vehicle maintenance shop; operations building; grain bagging building; mixing room; liquid storage tanks; exterior mineral and chemical storage areas; a truck washing location; truck parking locations; and boiler room.

Information available to CSPA indicates that the following industrial operations are conducted at the Facility: dairy feed manufacturing; material handling and storage; vehicle maintenance; equipment cleaning; and vehicle and equipment storage. Information available to CSPA indicates that these activities are exposed to storm water. Information available to CSPA also indicates that the A.L. Gilbert Facility Owner and/or Operator conducts activities related to vehicle maintenance and equipment cleaning throughout the Facility.

Each of these areas, locations, activities, or materials is a potential source of pollutants at the Facility. Information available to CSPA indicates that many, if not all, of the industrial operations and associated material storage at the Facility are conducted outdoors without adequate cover or other effective best management practices ("BMPs") to prevent storm water exposure to pollutant sources, and without adequate secondary containment or other measures to prevent polluted storm water from discharging from the Facility.

³ 2010 Integrated Report – All Assessed Waters, available at: http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2010.shtml (last accessed on January 15, 2015).

⁴ 2010 Integrated Report – All Assessed Waters, available at: http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2010.shtml (last accessed on January 15, 2015).

The pollutants associated with operations at the A.L. Gilbert Facility include, but are not limited to: TSS; TOC; pH-affecting substances; BOD; O&G; antifreeze; and heavy metals, including arsenic, cadmium, chromium, copper, cobalt, iron, lead, magnesium, and zinc.

Information available to CSPA also indicates that the pollutants and pollutant sources identified above have been and continue to be deposited in and around and/or tracked throughout the Facility. Pollutants accumulate at the storm water discharge points and drop inlets to the onsite storm drain system. They also accumulate at and on the driveways to Yosemite Avenue, resulting in the discharge of pollutants at the driveways as well as tracking of sediment, dirt, oil and grease, metal particles and other pollutants off-site.

F. The A.L. Gilbert Facility's Failure to Implement BMPs and Associated Discharges of Pollutants.

Information available to CSPA indicates that there are at least 15 storm water discharge locations at the Facility. Based on the A.L. Gilbert Facility Owner's and/or Operator's reporting, eight of these discharge locations are designated storm water sampling locations, as follows: North Mill #1, North Mill #2, North Mill #3, North Mill #5, South Mill #1, South Mill #2, South Mill #3, and South Mill #4.

The A.L. Gilbert Facility Owner and/or Operator has not properly developed and/or implemented the required BMPs to address pollutant sources, prevent the exposure of pollutants to storm water, and prevent the subsequent discharge of polluted storm water from the Facility during rain events. Consequently, during rain events, storm water carries pollutants from the Facility's uncovered and exposed areas of industrial activity into the Receiving Waters. These discharges negatively impact the Receiving Waters and CSPA's members' use and enjoyment of the Receiving Waters.

The A.L. Gilbert Facility Owner's and/or Operator's failure to develop and/or implement BMPs required by the Storm Water Permit to reduce or eliminate pollutant levels in discharges is also documented by the Regional Board. Information available to CSPA indicates that the Regional Board issued its first notification of inadequate BMPs to the A.L. Gilbert Facility Owner and/or Operator in October 2009 based on high levels of pollutants in the Facility's storm water discharges during the 2008/2009 Wet Season. Specifically, the Regional Board put the A.L. Gilbert Facility Owner and/or Operator on notice that the BMPs and general storm water management at the Facility must be improved. The A.L. Gilbert Facility Owner and/or Operator responded on November 18, 2009, indicating improvements would be made throughout the next Wet Season, and that the Storm Water Pollution Prevention Plan ("SWPPP") would be updated.

Via letter dated October 14, 2010, the Regional Board again informed the A.L. Gilbert Facility Owner and/or Operator that levels of pollutants in discharges from the Facility indicate that BMPs implemented at the Facility are not sufficient, and required the A.L. Gilbert Facility Owner and/or Operator to modify its BMPs. In its November 9, 2010, response the A.L. Gilbert Facility Owner and/or Operator stated that: (1) BMPs at the Facility were not fully implemented, (2) the previously revised SWPPP had not been in effect until March 2010, and (3) it believed the next year's sample results would show improvement.

As excessive concentrations of pollutants in the Facility's storm water discharges continued into the next Wet Season, the Regional Board issued a California Water Code section 13267 Order dated March 16, 2012, informing the A.L. Gilbert Facility Owner and/or Operator that concentrations of pollutants in discharges from the Facility continue to demonstrate that current BMPs are insufficient and that modifications are required. The 13267 Order required the A.L. Gilbert Facility Owner and/or Operator to review past sampling data, annual reporting, and current BMPs, and modify existing BMPs and/or implement new BMPs to reduce or eliminate the discharge of pollutants as necessary to comply with the Storm Water Permit. The 13267 Order also required the A.L. Gilbert Facility Owner and/or Operator to submit a written response by April 23, 2012, along with a revised SWPPP and M&RP for the Facility that addressed the exceedances and Storm Water Permit violations. The A.L. Gilbert Facility Owner and/or Operator responded by the deadline, repeating its claims that BMPs were being improved, that BMP implementation would be completed by May 16, 2012, and that future sample results would show reduction in pollutant levels.

II. Violations of the Clean Water Act and the Storm Water Permit.

In California, any person who discharges storm water associated with industrial activity must comply with the terms of the Storm Water Permit in order to lawfully discharge pollutants. *See* 33 U.S.C. §§ 1311(a), 1342; 40 C.F.R. § 122.26(c)(1); *see also* Storm Water Permit, Fact Sheet at VII.

A. Discharges of Polluted Storm Water from the A.L. Gilbert Facility in Violation of Effluent Limitation B(3) of the Storm Water Permit.

Effluent Limitation B(3) of the Storm Water Permit requires dischargers to reduce or prevent pollutants associated with industrial activity in storm water discharges through implementation of BMPs that achieve best available technology economically achievable ("BAT") for toxic pollutants⁵ and best conventional pollutant control technology ("BCT") for conventional pollutants.⁶ Benchmark Levels are relevant and objective standards to evaluate whether a permittee's BMPs achieve compliance with BAT/BCT standards as required by Effluent Limitation B(3) of the Storm Water Permit.⁷

Sampling at the A.L. Gilbert Facility establishes the repeated and significant exceedances of Benchmark Levels, which demonstrates that the A.L. Gilbert Facility Owner and/or Operator has not implemented BMPs at the Facility that achieve compliance with the BAT/BCT standards. *See* Exhibit A. The A.L. Gilbert Facility Owner and/or Operator has failed and continues to fail to develop and/or implement BMPs to prevent the exposure of pollutants to storm water and to prevent discharges of polluted storm water from the Facility, in violation of Effluent Limitation B(3) of the Storm Water Permit.

⁵ Toxic pollutants are listed at 40 C.F.R. § 401.15 and include copper, lead, and zinc, among others.

⁶ Conventional pollutants are listed at 40 C.F.R. § 401.16 and include biological oxygen demand, total suspended solids, oil and grease, pH, and fecal coliform.

⁷ *See* EPA Storm Water Multi-Sector Permit (2008), Fact Sheet, p. 106; *see also*, EPA Storm Water Multi-Sector Permit, 65 Federal Register 64839 (2000).

Information available to CSPA indicates that the A.L. Gilbert Facility Owner and/or Operator violates Effluent Limitation B(3) of the Storm Water Permit for failing to develop and/or implement BMPs that achieve BAT/BCT each time storm water is discharged from the Facility. *See e.g.*, Exhibit B (setting forth dates of significant rain events at the Facility).⁸ These discharge violations are ongoing and will continue each day the A.L. Gilbert Facility Owner and/or Operator discharges polluted storm water without developing and/or implementing BMPs that achieve compliance with the BAT/BCT standards. CSPA will update the number and dates of violation when additional information and data becomes available. Each time the A.L. Gilbert Facility Owner and/or Operator discharge polluted storm water in violation of Effluent Limitation B(3) of the Storm Water Permit is a separate and distinct violation of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. §1311(a). The A.L. Gilbert Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since February 3, 2010.

B. Discharges of Polluted Storm Water in Violation of Receiving Water Limitations C(1) and C(2) of the Storm Water Permit.

Receiving Water Limitation C(1) of the Storm Water Permit prohibits storm water discharges and authorized non-stormwater discharges to surface water or ground water that adversely impact human health or the environment. Discharges that contain pollutants in concentrations that exceed levels known to adversely impact aquatic species and the environment constitute violations of Receiving Water Limitation C(1) of the Storm Water Permit and the Clean Water Act. Receiving Water Limitation C(2) of the Storm Water Permit prohibits storm water discharges and authorized non-stormwater discharges that cause or contribute to an exceedance of an applicable water quality standard ("WQS").⁹ Discharges that contain pollutants in excess of an applicable WQS violate Receiving Water Limitation C(2) of the Storm Water Permit and the Clean Water Act.

Information available to CSPA indicates that the Facility's storm water discharges contain elevated concentrations of pollutants, including but not limited to BOD, copper, and zinc, which can be acutely toxic and/or have sub-lethal impacts on the avian and aquatic wildlife in the Receiving Waters. Discharges of elevated concentrations of pollutants in the storm water from the Facility also adversely impact human health. These harmful discharges from the A.L. Gilbert Facility are violations of Receiving Water Limitation C(1).

⁸ Dates of significant rain events from February 2010 to April 2011 are measured at the Goodwin Tunnel Rain Gauge, as information prior to May 2011 is unavailable for the Oakdale Weather Station. Dates of significant rain events from May 2011 to December 2014 are measured at the Oakdale Weather Station. A significant rain event is defined by EPA as a rainfall event generating 0.1 inches or more of rainfall, which generally results in discharges at a typical industrial facility.

⁹ As explained above in Section I.D, the Basin Plan designates Beneficial Uses for the Receiving Waters. Water quality standards are pollutant concentration levels determined by the state or federal agencies to be protective of designated Beneficial Uses. Discharges above water quality standards contribute to the impairment of the Receiving Waters' Beneficial Uses. Applicable water quality standards include, among others, the Criteria for Priority Toxic Pollutants in the State of California, 40 C.F.R. § 131.38 ("CTR"), and the water quality objectives in the Basin Plan.

Information available to CSPA further indicates that the Facility's storm water discharges contain concentrations of pollutants that cause or contribute to an exceedance of applicable WQSs, in violation of Receiving Water Limitation C(2). *See, e.g.*, Exhibit A. Storm water discharges from the Facility that cause or contribute to exceedances of WQSs are violations of Receiving Water Limitation C(2).

Information available to CSPA indicates that the storm water discharges from the A.L. Gilbert Facility violate Receiving Water Limitations C(1) and/or C(2) each time storm water is discharged from the Facility. These violations are ongoing, and will continue each time contaminated storm water is discharged in violation of the Receiving Water Limitation C(1) and/or C(2) of the Storm Water Permit. Each time discharges of storm water from the Facility adversely impact human health or the environment is a separate and distinct violation of Receiving Water Limitation C(1) of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). Each time discharges of storm water from the Facility cause or contribute to a violation of an applicable WQS is a separate and distinct violation of Receiving Water Limitation C(2) of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). CSPA will update the number and dates of violation when additional information becomes available. The A.L. Gilbert Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since February 3, 2010.

C. Failure to Develop, Implement, and/or Revise an Adequate Storm Water Pollution Prevention Plan.

Section A(1) and Provision E(2) of the Storm Water Permit require dischargers to have developed and implemented a SWPPP by October 1, 1992, or prior to beginning industrial activities, that meets all of the requirements of the Storm Water Permit. The objective of the SWPPP requirement is to identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm water discharges from the Facility, and to implement site-specific BMPs to reduce or prevent pollutants associated with industrial activities in storm water discharges. *See* Storm Water Permit, Section A(2). These BMPs must achieve compliance with the Storm Water Permit's Effluent Limitations and Receiving Water Limitations. To ensure compliance with the Storm Water Permit, the SWPPP must be evaluated on an annual basis pursuant to the requirements of Section A(9), and must be revised as necessary to ensure compliance with the Storm Water Permit. *Id.*, Sections A(9) and (10).

Sections A(3) – A(10) of the Storm Water Permit set forth the requirements for a SWPPP. Among other requirements, the SWPPP must include: a site map showing the facility boundaries, storm water drainage areas with flow patterns, nearby water bodies, the location of the storm water collection, conveyance and discharge system, structural control measures, areas of actual and potential pollutant contact, and areas of industrial activity (*see* Storm Water Permit, Section A(4)); a list of significant materials handled and stored at the site (*see* Storm Water Permit, Section A(5)); a description of potential pollutant sources, including industrial processes, material handling and storage areas, dust and particulate generating activities, significant spills and leaks, non-stormwater discharges and their sources, and locations where soil erosion may occur (*see* Storm Water Permit, Section A(6)). Sections A(7) and A(8) of the Storm Water Permit require an assessment of potential pollutant sources at the facility and a description of the

BMPs to be implemented at the facility that will reduce or prevent pollutants in storm water discharges and authorized non-stormwater discharges, including structural BMPs where non-structural BMPs are not effective.

Information available to CSPA indicates that A.L. Gilbert Facility Owner and/or Operator has been conducting operations at the Facility with an inadequately developed and/or implemented SWPPP. For example, the A.L. Gilbert Owner and/or Operator failed to revise its SWPPP within ninety (90) days of notice that it is inadequate (*see* Storm Water Permit, Section A(10)(d)), and failed to submit a notification to the Regional Board within fourteen (14) days of implementing the SWPPP revisions, as required by Section A(10)(b) of the Storm Water Permit. In addition, the A.L. Gilbert Facility Owner and/or Operator failed to create and/or revise a site map that includes all the information required by Section A(4) of the Storm Water Permit. The A.L. Gilbert Facility Owner and/or Operator has also failed and continues to fail to develop and/or implement a SWPPP that contains BMPs to prevent the exposure of pollutant sources to storm water and the subsequent discharge of polluted storm water from the Facility, as required by the Storm Water Permit. Further, the A.L. Gilbert Facility Owner's and/or Operator's technical reports and responses to the Regional Board's notices of inadequate BMPs, which date back to 2009, acknowledge that BMPs identified in the SWPPPs for the Facility are insufficient and/or have not been fully implemented. The ongoing nature of the SWPPP inadequacies are documented by inadequate storm water management and the continuous and ongoing discharge of storm water containing pollutant levels in violation of the Storm Water Permit, including in the 2013/2014 Wet Season. *See, e.g.,* Exhibit A.

The A.L. Gilbert Facility Owner and/or Operator has failed to adequately develop, implement, and/or revise a SWPPP, in violation of Section A and Provision E(2) of the Storm Water Permit. Every day the Facility operates with an inadequately developed, implemented, and/or properly revised SWPPP is a separate and distinct violation of the Storm Water Permit and the Clean Water Act. The A.L. Gilbert Facility Owner and/or Operator has been in daily and continuous violation of the Storm Water Permit's SWPPP requirements since at least February 3, 2010. These violations are ongoing, and CSPA will include additional violations when information becomes available. The A.L. Gilbert Facility Owner and/or Operator are subject to civil penalties for all violations of the Clean Water Act occurring since February 3, 2010.

D. Failure to Develop, Implement, and/or Revise an Adequate Monitoring and Reporting Program.

Section B(1) and Provision E(3) of the Storm Water Permit require facility operators to develop and implement an adequate M&RP by October 1, 1992, or prior to the commencement of industrial activities at a facility, that meets all of the requirements of the Storm Water Permit. The primary objective of the M&RP is to detect and measure the concentrations of pollutants in a facility's discharge to ensure compliance with the Storm Water Permit's Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations. *See* Storm Water Permit, Section B(2). The M&RP must therefore ensure that BMPs are effectively reducing and/or eliminating pollutants at the facility, and must be evaluated and revised whenever appropriate to ensure compliance with the Storm Water Permit. *Id.*

Sections B(3) – B(16) of the Storm Water Permit set forth the M&RP requirements. Specifically, Section B(3) requires dischargers to conduct quarterly visual observations of all drainage areas within their facility for the presence of authorized and unauthorized non-stormwater discharges. Section B(4) requires dischargers to conduct visual observations of storm water discharges from one storm event per month during the Wet Season. Sections B(3) and B(4) further require dischargers to document the presence of any floating or suspended material, oil and grease, discolorations, turbidity, odor, and the source of any pollutants. Dischargers must maintain records of observations, observation dates, locations observed, and responses taken to eliminate unauthorized non-stormwater discharges and to reduce or prevent pollutants from contacting non-stormwater and storm water discharges. *See* Storm Water Permit, Sections B(3) and B(4). Dischargers must also revise the SWPPP in response to these observations to ensure that BMPs are effectively reducing and/or eliminating pollutants at the facility. *Id.*, Section B(4).

Sections B(5) and B(7) of the Storm Water Permit require dischargers to collect samples of storm water from all locations where storm water is discharged. Storm water samples must be analyzed for TSS, pH, specific conductance, total organic carbon or oil and grease, and other pollutants that are likely to be present in the facility's discharges in significant quantities. *See* Storm Water Permit, Section B(5)(c). Pollutants that are likely to be present in the Facility's discharges in significant quantities include, but are not limited to, cobalt, copper, iron, magnesium, and zinc. *See* April 2012 SWPPP at pp. 4-5; *see also* Ex. A.

Information available to CSPA, including review of Annual Reports, indicates that the A.L. Gilbert Facility Owner and/or Operator has been conducting operations at the Facility with an inadequately developed and/or implemented M&RP, and has failed to revise the M&RP as required by the Storm Water Permit. For example, in each of the past five wet seasons, the A.L. Gilbert Facility Owner and/or Operator has failed to conduct visual observations for non-storm water discharges or storm water discharges at each discharge location and/or has failed to document such visual observations.

The A.L. Gilbert Facility Owner and/or Operator is also not collecting or analyzing samples as required by the Storm Water Permit. For example, for each of the past five wet seasons, except in the 2012-2013 wet season, the A.L. Gilbert Facility Owner and/or Operator has failed to collect storm water samples from all discharge locations, and has composited samples that were collected. The Permit requires permittees to collect samples from all discharge locations and does not allow for composite sampling. During the 2013-2014 wet season, the A.L. Gilbert Facility Owner and/or Operator failed to collect storm water samples from at least two rain events though more than one significant rain event occurred at the Facility in that time period. *See* Exhibit B. In addition, for each of the past five wet seasons the A.L. Gilbert Facility Owner and/or Operator has failed to analyze storm water samples from the Facility for contaminants likely to be present in significant quantities, as the A.L. Gilbert Facility Owner and/or Operator has failed to analyze some or all storm water samples for at least arsenic, BOD, cadmium, chromium, cobalt, copper, iron, lead, magnesium, and/or zinc. These failures to comply with the Storm Water Permit's requirements demonstrate the inadequacies of the M&RP and the failure to properly implement the M&RP at the Facility.

The A.L. Gilbert Facility Owner's and/or Operator's failure to conduct sampling, monitoring, and reporting as required by the Storm Water Permit demonstrates that it has failed to develop, implement, and/or revise an M&RP that complies with the requirements of Section B and Provision E(3) of the Storm Water Permit. Every day that the A.L. Gilbert Facility Owner and/or Operator conducts operations in violation of the specific monitoring and reporting requirements of the Storm Water Permit, or with an inadequately developed and/or implemented M&RP, is a separate and distinct violation of the Storm Water Permit and the Clean Water Act. The A.L. Gilbert Facility Owner and/or Operator has been in daily and continuous violation of the Storm Water Permit's M&RP requirements every day since at least February 3, 2010. These violations are ongoing, and CSPA will include additional violations when information becomes available. The A.L. Gilbert Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since February 3, 2010.

E. Failure to Comply with the Storm Water Permit's Reporting Requirements.

Section B(14) of the Storm Water Permit requires a permittee to submit an Annual Report to the Regional Board by July 1 of each year. Section B(14) requires that the Annual Report include a summary of visual observations and sampling results, an evaluation of the visual observation and sampling results, the laboratory reports of sample analysis, the annual comprehensive site compliance evaluation report, an explanation of why a permittee did not implement any activities required, and other information specified in Section B(13).

Since at least the 2009/2010 Annual Report, the A.L. Gilbert Facility Owner and/or Operator has failed to submit Annual Reports that comply with the Storm Water Permit reporting requirements, including filing incomplete Annual Reports that do not provide the information required by the Storm Water Permit. For example, each Annual Report indicates that: (1) a complete Annual Comprehensive Site Compliance Evaluation was done pursuant to Section A(9) of the Storm Water Permit; (2) the SWPPP's BMPs address existing potential pollutant sources; and (3) the SWPPP complies with the Storm Water Permit, or will otherwise be revised to achieve compliance. However, information available to CSPA, including a review of the Regional Board's files and the Facility storm water sampling data, indicates that these certifications by the A.L. Gilbert Facility Owner and/or Operator are erroneous, because it has not developed and/or implemented adequate BMPs or adequately revised and/or implemented the SWPPP, resulting in the ongoing discharge of storm water containing pollutant levels in violation of the Storm Water Permit limitations. In fact, Annual Reports document the need for additional BMPs, or improvements to current BMPs, yet the compliance certifications note all required BMPs are in place and working as intended.

Information available to CSPA indicates that the A.L. Gilbert Facility Owner and/or Operator has submitted incomplete and/or incorrect Annual Reports that fail to comply with the Storm Water Permit. As such, the A.L. Gilbert Facility Owner and/or Operator is in daily violation of the Storm Water Permit. Every day the A.L. Gilbert Facility Owner and/or Operator conducts operations at the Facility without reporting as required by the Storm Water Permit is a separate and distinct violation of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. §1311(a). The A.L. Gilbert Facility Owner and/or Operator has been in daily and continuous violation of the Storm Water Permit's reporting requirements every day since at least

February 3, 2010. These violations are ongoing. The A.L. Gilbert Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since February 3, 2010.

III. Relief and Penalties Sought for Violations of the Clean Water Act.

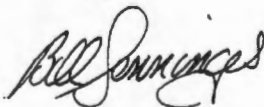
Pursuant to Section 309(d) of the Clean Water Act, 33 U.S.C. § 1319(d), and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. §19.4, each separate violation of the Clean Water Act subjects the violator to a penalty for all violations occurring during the period commencing five years prior to the date of a notice of intent to file suit letter. These provisions of law authorize civil penalties of up to \$37,500 per day per violation for all Clean Water Act violations. In addition to civil penalties, CSPA will seek injunctive relief preventing further violations of the Clean Water Act pursuant to Sections 505(a) and (d), 33 U.S.C. §1365(a) and (d), declaratory relief, and such other relief as permitted by law. Lastly, pursuant to Section 505(d) of the Clean Water Act, 33 U.S.C. § 1365(d), CSPA will seek to recover its costs, including attorneys' and experts' fees, associated with this enforcement action.

IV. Conclusion.

Upon expiration of the 60-day notice period, CSPA will file a citizen suit under Section 505(a) of the Clean Water Act for the A.L. Gilbert Facility Owner's and/or Operator's violations of the Storm Water Permit. During the 60-day notice period, however, CSPA is willing to discuss effective remedies for the violations noted in this letter. If you wish to pursue such discussions please contact CSPA's legal counsel as listed below.

Drevet Hunt
drev@lawyersforcleanwater.com
Caroline Koch
caroline@lawyersforcleanwater.com
Lawyers for Clean Water, Inc.
1004-A O'Reilly Avenue
San Francisco, California 94129
Tel: (415) 440-6520

Sincerely,



Bill Jennings, Executive Director
California Sportfishing Protection Alliance

SERVICE LIST

Eric H. Holder, Jr.
U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Gina McCarthy
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Thomas Howard
Executive Director
State Water Resources Control Board
P.O. Box 100
Sacramento, California 95812-0100

Jared Blumenfeld
Regional Administrator
U.S. Environmental Protection Agency
Region IX
75 Hawthorne Street
San Francisco, California 94105

Pamela Creedon
Executive Officer
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive #200
Rancho Cordova, California 95670-6114

Exhibit A

Date/time of sample collection	Parameter	Sample Location	Result	Units	Benchmark	Magnitude of Benchmark Exceedance	Water Quality Objective	Magnitude of WQO Exceedance
2009/2010 Wet Season								
10/13/09 9:50	Biological Oxygen Demand (BOD)	North Mill Composite	300	mg/L	30	10	none	0
10/13/09 9:50	Cadmium (Cd)	North Mill Composite	ND	mg/L	0.0018	0	0.0045	0
10/13/09 9:50	Copper (Cu)	North Mill Composite	0.18	mg/L	0.0123	14.63	0.013	13.85
10/13/09 9:50	Electrical Conductivity @ 25 Deg. C	North Mill Composite	650	umhos/cm	200	3.25	none	0
10/13/09 9:50	Lead (Pb)	North Mill Composite	ND	mg/L	0.069	0	0.065	0
10/13/09 9:50	Nickel (Ni)	North Mill Composite	ND	mg/L	0.42	0	none	0
10/13/09 9:50	Oil and Grease	North Mill Composite	29	mg/L	15	1.93	none	0
10/13/09 9:50	pH	North Mill Composite	6.6	SU	6.0-9.0	0	6.5-8.5	0
10/13/09 9:50	Total Suspended Solids (TSS)	North Mill Composite	500	mg/L	100	5	none	0
10/13/09 9:50	Zinc Total	North Mill Composite	500	ug/L	110	4.55	120	4.17
10/13/09 9:50	Biological Oxygen Demand (BOD)	South Mill Composite	170	mg/L	30	5.67	none	0
10/13/09 9:50	Cadmium (Cd)	South Mill Composite	ND	mg/L	0.0018	0	0.0045	0
10/13/09 9:50	Copper (Cu)	South Mill Composite	1.6	mg/L	0.0123	130.08	0.013	123.08
10/13/09 10:38	Electrical Conductivity @ 25 Deg. C	South Mill Composite	790	umhos/cm	200	3.95	none	0
10/13/09 9:50	Lead (Pb)	South Mill Composite	ND	mg/L	0.069	0	0.065	0
10/13/09 9:50	Nickel (Ni)	South Mill Composite	ND	mg/L	0.42	0	none	0
10/13/09 10:38	Oil and Grease	South Mill Composite	24	mg/L	15	1.6	none	0
10/13/09 10:38	pH	South Mill Composite	8.7	SU	6.0-9.0	0	6.5-8.5	0.2
10/13/09 10:38	Total Suspended Solids (TSS)	South Mill Composite	620	mg/L	100	6.2	none	0
10/13/09 10:38	Zinc Total	South Mill Composite	6900	ug/L	110	62.73	120	57.5

Date/time of sample collection	Parameter	Sample Location	Result	Units	Benchmark	Magnitude of Benchmark Exceedance	Water Quality Objective	Magnitude of WQO Exceedance
1/25/10 12:25	Electrical Conductivity @ 25 Deg. C	North Mill Composite	200	umhos/cm	200	0	none	0
1/25/10 12:25	Oil and Grease	North Mill Composite	16	mg/L	15	1.07	none	0
1/25/10 12:25	pH	North Mill Composite	7.1	SU	6.0-9.0	0	6.5-8.5	0
1/25/10 12:25	Total Suspended Solids (TSS)	North Mill Composite	300	mg/L	100	3	none	0
1/25/10 12:38	Electrical Conductivity @ 25 Deg. C	South Mill Composite	140	umhos/cm	200	0	none	0
1/25/10 12:38	Oil and Grease	South Mill Composite	15	mg/L	15	0	none	0
1/25/10 12:38	pH	South Mill Composite	7.1	SU	6.0-9.0	0	6.5-8.5	0
1/25/10 12:38	Total Suspended Solids (TSS)	South Mill Composite	210	mg/L	100	2.1	none	0
2/23/10 14:15	Electrical Conductivity @ 25 Deg. C	South Mill Composite	206	umhos/cm	200	1.03	none	0
2/23/10 14:15	Oil and Grease	South Mill Composite	12	mg/L	15	0	none	0
2/23/10 14:15	pH	South Mill Composite	8.8	SU	6.0-9.0	0	6.5-8.5	0.3
2/23/10 14:15	Total Suspended Solids (TSS)	South Mill Composite	202	mg/L	100	2.02	none	0
2/23/10 14:15	Zinc Total	South Mill Composite	953	ug/L	110	8.66	120	7.94
2/23/10 14:55	Electrical Conductivity @ 25 Deg. C	North Mill Composite	557	umhos/cm	200	2.785	none	0
2/23/10 14:55	Oil and Grease	North Mill Composite	27	mg/L	15	1.8	none	0
2/23/10 14:55	pH	North Mill Composite	7.4	SU	6.0-9.0	0	6.5-8.5	0
2/23/10 14:55	Total Suspended Solids (TSS)	North Mill Composite	660	mg/L	100	6.6	none	0
2/23/10 14:55	Zinc Total	North Mill Composite	1240	ug/L	110	11.27	120	10.33

Date/time of sample collection	Parameter	Sample Location	Result	Units	Benchmark	Magnitude of Benchmark Exceedance	Water Quality Objective	Magnitude of WQO Exceedance
2010/2011 Wet Season								
11/23/10 9:30	Biological Oxygen Demand (BOD)	South Mill Composite	54	mg/L	30	1.8	none	0
11/23/10 9:30	Electrical Conductivity @ 25 Deg. C	South Mill Composite	97	umhos/cm	200	0	none	0
11/23/10 9:30	Oil and Grease	South Mill Composite	12.1	mg/L	15	0	none	0
11/23/10 9:30	pH	South Mill Composite	7.6	SU	6.0-9.0	0	6.5-8.5	0
11/23/10 9:30	Total Organic Carbon (TOC)	South Mill Composite	9.4	mg/L	100	0	none	0
11/23/10 9:30	Total Suspended Solids (TSS)	South Mill Composite	228	mg/L	100	2.28	none	0
11/23/10 9:30	Zinc Total	South Mill Composite	1500	ug/L	110	13.64	120	12.5
11/23/10 10:00	Biological Oxygen Demand (BOD)	North Mill Composite	94	mg/L	30	3.13	none	0
11/23/10 10:00	Electrical Conductivity @ 25 Deg. C	North Mill Composite	95	umhos/cm	200	0	none	0
11/23/10 10:00	Oil and Grease	North Mill Composite	8.5	mg/L	15	0	none	0
11/23/10 10:00	pH	North Mill Composite	7	SU	6.0-9.0	0	6.5-8.5	0
11/23/10 10:00	Total Organic Carbon (TOC)	North Mill Composite	53.4	mg/L	100	0	none	0
11/23/10 10:00	Total Suspended Solids (TSS)	North Mill Composite	241	mg/L	100	2.41	none	0
11/23/10 10:00	Zinc Total	North Mill Composite	707	ug/L	110	6.43	120	5.89
2/25/11 10:40	Biological Oxygen Demand (BOD)	South Mill Composite	8	mg/L	30	0	none	0
2/25/11 10:40	Electrical Conductivity @ 25 Deg. C	South Mill Composite	104	umhos/cm	200	0	none	0
2/25/11 10:40	Oil and Grease	South Mill Composite	5	mg/L	15	0	none	0
2/25/11 10:40	pH	South Mill Composite	7.3	SU	6.0-9.0	0	6.5-8.5	0
2/25/11 10:40	Total Organic Carbon (TOC)	South Mill Composite	5.6	mg/L	100	0	none	0
2/25/11 10:40	Total Suspended Solids (TSS)	South Mill Composite	54	mg/L	100	0	none	0

Date/time of sample collection	Parameter	Sample Location	Result	Units	Benchmark	Magnitude of Benchmark Exceedance	Water Quality Objective	Magnitude of WQO Exceedance
2/25/11 10:40	Zinc Total	South Mill Composite	224	ug/L	110	2.04	120	1.87
2/25/11 11:19	Biological Oxygen Demand (BOD)	North Mill Composite	188	mg/L	30	6.27	none	0
2/25/11 11:19	Electrical Conductivity @ 25 Deg. C	North Mill Composite	437	umhos/cm	200	2.185	none	0
2/25/11 11:19	Oil and Grease	North Mill Composite	15.2	mg/L	15	1.01	none	0
2/25/11 11:19	pH	North Mill Composite	6.1	SU	6.0-9.0	0	6.5-8.5	0.4
2/25/11 11:19	Total Organic Carbon (TOC)	North Mill Composite	109	mg/L	100	1.09	none	0
2/25/11 11:19	Total Suspended Solids (TSS)	North Mill Composite	529	mg/L	100	5.29	none	0
2/25/11 11:19	Zinc Total	North Mill Composite	908	ug/L	110	8.25	120	7.57

Date/time of sample collection	Parameter	Sample Location	Result	Units	Benchmark	Magnitude of Benchmark Exceedance	Water Quality Objective	Magnitude of WQO Exceedance
2011/2012 Wet Season								
1/23/12 10:20	Electrical Conductivity @ 25 Deg. C	South Mill Composite	768	umhos/cm	200	3.84	none	0
1/23/12 10:20	Oil and Grease	South Mill Composite	11.8	mg/L	15	0	none	0
1/23/12 10:20	pH	South Mill Composite	8.3	SU	6.0-9.0	0	6.5-8.5	0
1/23/12 10:20	Total Suspended Solids (TSS)	South Mill Composite	66	mg/L	100	0	none	0
1/23/12 10:20	Zinc Total	South Mill Composite	0.615	mg/L	0.11	5.59	0.12	5.125
1/23/12 10:45	Biological Oxygen Demand (BOD)	North Mill Composite	169	mg/L	30	5.63	none	0
1/23/12 10:45	Electrical Conductivity @ 25 Deg. C	North Mill Composite	346	umhos/cm	200	1.73	none	0
1/23/12 10:45	Oil and Grease	North Mill Composite	23	mg/L	15	1.53	none	0
1/23/12 10:45	pH	North Mill Composite	7.7	SU	6.0-9.0	0	6.5-8.5	0
1/23/12 10:45	Total Suspended Solids (TSS)	North Mill Composite	248	mg/L	100	2.48	none	0
1/23/12 10:45	Zinc Total	North Mill Composite	0.648	mg/L	0.11	5.89	0.12	5.4
2/29/12 11:30	Biological Oxygen Demand (BOD)	South Mill Composite	46	mg/L	30	1.53	none	0
2/29/12 11:30	Electrical Conductivity @ 25 Deg. C	South Mill Composite	188	umhos/cm	200	0	none	0
2/29/12 11:30	Oil and Grease	South Mill Composite	5	mg/L	15	0	none	0
2/29/12 11:30	pH	South Mill Composite	8.9	SU	6.0-9.0	0	6.5-8.5	0.4
2/29/12 11:30	Total Suspended Solids (TSS)	South Mill Composite	115	mg/L	100	1.15	none	0
2/29/12 11:30	Zinc Total	South Mill Composite	1.11	mg/L	0.11	10.09	0.12	9.25
2/29/12 11:55	Biological Oxygen Demand (BOD)	North Mill Composite	397	mg/L	30	13.23	none	0
2/29/12 11:55	Electrical Conductivity @ 25 Deg. C	North Mill Composite	564	umhos/cm	200	2.82	none	0
2/29/12 11:55	Oil and Grease	North Mill Composite	7	mg/L	15	0	none	0

Date/time of sample collection	Parameter	Sample Location	Result	Units	Benchmark	Magnitude of Benchmark Exceedance	Water Quality Objective	Magnitude of WQO Exceedance
2/29/12 11:55	pH	North Mill Composite	8	SU	6.0-9.0	0	6.5-8.5	0
2/29/12 11:55	Total Suspended Solids (TSS)	North Mill Composite	144	mg/L	100	1.44	none	0
2/29/12 11:55	Zinc Total	North Mill Composite	0.617	mg/L	0.11	5.61	0.12	5.14

Date/time of sample collection	Parameter	Sample Location	Result	Units	Benchmark	Magnitude of Benchmark Exceedance	Water Quality Objective	Magnitude of WQO Exceedance
2012/2013 Wet Season								
11/30/12 9:50	Biological Oxygen Demand (BOD)	South Mill #4	12	mg/L	30	0	none	0
11/30/12 9:50	Electrical Conductivity @ 25 Deg. C	South Mill #4	132	umhos/cm	200	0	none	0
11/30/12 9:50	pH	South Mill #4	7	SU	6.0-9.0	0	6.5-8.5	0
11/30/12 9:50	Total Organic Carbon (TOC)	South Mill #4	4.2	mg/L	100	0	none	0
11/30/12 9:50	Total Suspended Solids (TSS)	South Mill #4	65	mg/L	100	0	none	0
11/30/12 9:50	Zinc Total	South Mill #4	0.385	mg/L	0.11	3.5	0.12	3.21
11/30/12 9:50	Biological Oxygen Demand (BOD)	South Mill #3	22	mg/L	30	0	none	0
11/30/12 9:58	Electrical Conductivity @ 25 Deg. C	South Mill #3	371	umhos/cm	200	1.855	none	0
11/30/12 9:58	pH	South Mill #3	6.8	SU	6.0-9.0	0	6.5-8.5	0
11/30/12 9:58	Total Organic Carbon (TOC)	South Mill #3	6	mg/L	100	0	none	0
11/30/12 9:58	Total Suspended Solids (TSS)	South Mill #3	113	mg/L	100	1.13	none	0
11/30/12 9:58	Zinc Total	South Mill #3	2.93	mg/L	0.11	26.64	0.12	24.42
11/30/12 9:50	Biological Oxygen Demand (BOD)	South Mill #2	10	mg/L	30	0	none	0
11/30/12 10:05	Electrical Conductivity @ 25 Deg. C	South Mill #2	240	umhos/cm	200	1.2	none	0
11/30/12 10:05	pH	South Mill #2	8.6	SU	6.0-9.0	0	6.5-8.5	0.1
11/30/12 10:05	Total Organic Carbon (TOC)	South Mill #2	38.8	mg/L	100	0	none	0
11/30/12 10:05	Total Suspended Solids (TSS)	South Mill #2	34	mg/L	100	0	none	0
11/30/12 9:50	Biological Oxygen Demand (BOD)	South Mill #1	30	mg/L	30	0	none	0
11/30/12 10:15	Electrical Conductivity @ 25 Deg. C	South Mill #1	143	umhos/cm	200	0	none	0
11/30/12 10:15	pH	South Mill #1	6.8	SU	6.0-9.0	0	6.5-8.5	0

Date/time of sample collection	Parameter	Sample Location	Result	Units	Benchmark	Magnitude of Benchmark Exceedance	Water Quality Objective	Magnitude of WQO Exceedance
11/30/12 10:15	Total Organic Carbon (TOC)	South Mill #1	9.4	mg/L	100	0	none	0
11/30/12 10:15	Total Suspended Solids (TSS)	South Mill #1	43	mg/L	100	0	none	0
11/30/12 10:15	Zinc Total	South Mill #1	0.166	mg/L	0.11	1.51	0.12	1.38
11/30/12 9:50	Biological Oxygen Demand (BOD)	North Mill #5	45	mg/L	30	1.5	none	0
11/30/12 10:15	Electrical Conductivity @ 25 Deg. C	North Mill #5	123	umhos/cm	200	0	none	0
11/30/12 10:15	pH	North Mill #5	6.9	SU	6.0-9.0	0	6.5-8.5	0
11/30/12 10:15	Total Organic Carbon (TOC)	North Mill #5	11.1	mg/L	100	0	none	0
11/30/12 10:15	Total Suspended Solids (TSS)	North Mill #5	440	mg/L	100	4.4	none	0
11/30/12 10:15	Zinc Total	North Mill #5	0.499	mg/L	0.11	4.54	0.12	4.16
11/30/12 9:50	Biological Oxygen Demand (BOD)	North Mill #3	48	mg/L	30	1.6	none	0
11/30/12 10:35	Electrical Conductivity @ 25 Deg. C	North Mill #3	93	umhos/cm	200	0	none	0
11/30/12 10:35	pH	North Mill #3	6.9	SU	6.0-9.0	0	6.5-8.5	0
11/30/12 10:35	Total Organic Carbon (TOC)	North Mill #3	7.3	mg/L	100	0	none	0
11/30/12 10:35	Total Suspended Solids (TSS)	North Mill #3	534	mg/L	100	5.34	none	0
11/30/12 10:35	Zinc Total	North Mill #3	0.725	mg/L	0.11	6.59	0.12	6.04
11/30/12 10:45	Biological Oxygen Demand (BOD)	North Mill #2	307	mg/L	30	10.23	none	0
11/30/12 10:45	Electrical Conductivity @ 25 Deg. C	North Mill #2	810	umhos/cm	200	4.05	none	0
11/30/12 10:45	pH	North Mill #2	6.4	SU	6.0-9.0	0	6.5-8.5	0.1
11/30/12 10:45	Total Organic Carbon (TOC)	North Mill #2	261	mg/L	100	2.61	none	0
11/30/12 10:45	Total Suspended Solids (TSS)	North Mill #2	307	mg/L	100	3.07	none	0
11/30/12 10:45	Zinc Total	North Mill #2	0.921	mg/L	0.11	8.37	0.12	7.675

Date/time of sample collection	Parameter	Sample Location	Result	Units	Benchmark	Magnitude of Benchmark Exceedance	Water Quality Objective	Magnitude of WQO Exceedance
11/30/12 10:58	Biological Oxygen Demand (BOD)	North Mill #1	235	mg/L	30	7.83	none	0
11/30/12 10:58	Electrical Conductivity @ 25 Deg. C	North Mill #1	690	umhos/cm	200	3.45	none	0
11/30/12 10:58	pH	North Mill #1	5.5	SU	6.0-9.0	0	6.5-8.5	1
11/30/12 10:58	Total Organic Carbon (TOC)	North Mill #1	208	mg/L	100	2.08	none	0
11/30/12 10:58	Total Suspended Solids (TSS)	North Mill #1	402	mg/L	100	4.02	none	0
11/30/12 10:58	Zinc Total	North Mill #1	0.405	mg/L	0.11	3.68	0.12	3.375
2/19/13 14:25	Biological Oxygen Demand (BOD)	South Mill #4	32	mg/L	30	1.07	none	0
2/19/13 14:25	Electrical Conductivity @ 25 Deg. C	South Mill #4	342	umhos/cm	200	1.71	none	0
2/19/13 14:25	Oil and Grease	South Mill #4	5	mg/L	15	0	none	0
2/19/13 14:25	pH	South Mill #4	7.5	SU	6.0-9.0	0	6.5-8.5	0
2/19/13 14:25	Total Suspended Solids (TSS)	South Mill #4	44	mg/L	100	0	none	0
2/19/13 14:25	Zinc Total	South Mill #4	0.635	mg/L	0.11	5.77	0.12	5.29
2/19/13 14:25	Biological Oxygen Demand (BOD)	South Mill #3	39	mg/L	30	1.3	none	0
2/19/13 14:30	Electrical Conductivity @ 25 Deg. C	South Mill #3	314	umhos/cm	200	1.57	none	0
2/19/13 14:25	Oil and Grease	South Mill #3	ND	mg/L	15	0	none	0
2/19/13 14:30	pH	South Mill #3	8.1	SU	6.0-9.0	0	6.5-8.5	0

Date/time of sample collection	Parameter	Sample Location	Result	Units	Benchmark	Magnitude of Benchmark Exceedance	Water Quality Objective	Magnitude of WQO Exceedance
2/19/13 14:30	Total Suspended Solids (TSS)	South Mill #3	88	mg/L	100	0	none	0
2/19/13 14:30	Zinc Total	South Mill #3	1.04	mg/L	0.11	9.45	0.12	8.67
2/19/13 14:25	Biological Oxygen Demand (BOD)	North Mill #5	73	mg/L	30	2.43	none	0
2/19/13 14:45	Electrical Conductivity @ 25 Deg. C	North Mill #5	638	umhos/cm	200	3.19	none	0
2/19/13 14:25	Oil and Grease	North Mill #5	ND	mg/L	15	0	none	0
2/19/13 14:45	pH	North Mill #5	7.8	SU	6.0-9.0	0	6.5-8.5	0
2/19/13 14:45	Total Suspended Solids (TSS)	North Mill #5	244	mg/L	100	2.44	none	0
2/19/13 14:45	Zinc Total	North Mill #5	0.38	mg/L	0.11	3.45	0.12	3.17
4/4/13 7:50	Biological Oxygen Demand (BOD)	North Mill #1	146	mg/L	30	4.87	none	0
4/4/13 7:50	Electrical Conductivity @ 25 Deg. C	North Mill #1	302	umhos/cm	200	1.51	none	0
4/4/13 7:50	Oil and Grease	North Mill #1	9.4	mg/L	15	0	none	0
4/4/13 7:50	pH	North Mill #1	7.1	SU	6.0-9.0	0	6.5-8.5	0
4/4/13 7:50	Total Suspended Solids (TSS)	North Mill #1	288	mg/L	100	2.88	none	0
4/4/13 7:50	Zinc Total	North Mill #1	0.3	mg/L	0.11	2.73	0.12	2.5
4/4/13 8:10	Biological Oxygen Demand (BOD)	North Mill #2	303	mg/L	30	10.1	none	0
4/4/13 8:10	Electrical Conductivity @ 25 Deg. C	North Mill #2	915	umhos/cm	200	4.575	none	0
4/4/13 8:10	Oil and Grease	North Mill #2	5	mg/L	15	0	none	0
4/4/13 8:10	pH	North Mill #2	7.9	SU	6.0-9.0	0	6.5-8.5	0
4/4/13 8:10	Total Suspended Solids (TSS)	North Mill #2	305	mg/L	100	3.05	none	0
4/4/13 8:10	Zinc Total	North Mill #2	0.558	mg/L	0.11	5.07	0.12	4.65
4/4/13 8:10	Biological Oxygen Demand (BOD)	North Mill #3	21	mg/L	30	0	none	0

Date/time of sample collection	Parameter	Sample Location	Result	Units	Benchmark	Magnitude of Benchmark Exceedance	Water Quality Objective	Magnitude of WQO Exceedance
4/4/13 8:25	Electrical Conductivity @ 25 Deg. C	North Mill #3	144	umhos/cm	200	0	none	0
4/4/13 8:25	Oil and Grease	North Mill #3	5	mg/L	15	0	none	0
4/4/13 8:25	pH	North Mill #3	7.8	SU	6.0-9.0	0	6.5-8.5	0
4/4/13 8:25	Total Suspended Solids (TSS)	North Mill #3	77	mg/L	100	0	none	0
4/4/13 8:25	Zinc Total	North Mill #3	0.195	mg/L	0.11	1.77	0.12	1.625
4/4/13 8:10	Biological Oxygen Demand (BOD)	North Mill #5	32	mg/L	30	1.07	none	0
4/4/13 8:35	Electrical Conductivity @ 25 Deg. C	North Mill #5	176	umhos/cm	200	0	none	0
4/4/13 8:35	Oil and Grease	North Mill #5	5	mg/L	15	0	none	0
4/4/13 8:35	pH	North Mill #5	7.6	SU	6.0-9.0	0	6.5-8.5	0
4/4/13 8:35	Total Suspended Solids (TSS)	North Mill #5	135	mg/L	100	1.35	none	0
4/4/13 8:35	Zinc Total	North Mill #5	0.216	mg/L	0.11	1.96	0.12	1.8

Date/time of sample collection	Parameter	Sample Location	Result	Units	Benchmark	Magnitude of Benchmark Exceedance	Water Quality Objective	Magnitude of WQO Exceedance
2013/2014 Wet Season								
11/20/13 14:40	Biological Oxygen Demand (BOD)	South Mill Composite	34	mg/L	30	1.13	none	0
11/20/13 14:40	Electrical Conductivity @ 25 Deg. C	South Mill Composite	126	umhos/cm	200	0	none	0
11/20/13 14:40	Oil and Grease	South Mill Composite	12.8	mg/L	15	0	none	0
11/20/13 14:40	pH	South Mill Composite	8.8	SU	6.0-9.0	0	6.5-8.5	0.3
11/20/13 14:40	Total Organic Carbon (TOC)	South Mill Composite	17.9	mg/L	100	0	none	0
11/20/13 14:40	Total Suspended Solids (TSS)	South Mill Composite	197	mg/L	100	1.97	none	0
11/20/13 14:40	Zinc Total	South Mill Composite	1.11	mg/L	0.11	10.09	0.12	9.25
11/20/13 15:10	Biological Oxygen Demand (BOD)	North Mill Composite	273	mg/L	30	9.1	none	0
11/20/13 15:10	Electrical Conductivity @ 25 Deg. C	North Mill Composite	624	umhos/cm	200	3.12	none	0
11/20/13 15:10	Oil and Grease	North Mill Composite	20.1	mg/L	15	1.34	none	0
11/20/13 15:10	pH	North Mill Composite	7.2	SU	6.0-9.0	0	6.5-8.5	0
11/20/13 15:10	Total Organic Carbon (TOC)	North Mill Composite	125	mg/L	100	1.25	none	0
11/20/13 15:10	Total Suspended Solids (TSS)	North Mill Composite	351	mg/L	100	3.51	none	0
11/20/13 15:10	Zinc Total	North Mill Composite	0.869	mg/L	0.11	7.9	0.12	7.24
				Total Benchmark Exceedances		102	Total WQO Exceedances	38

Exhibit B

Date	Day of Week	Rain
2/9/10	Tuesday	0.35
2/21/10	Sunday	0.32
2/23/10	Tuesday	0.74
2/24/10	Wednesday	0.40
2/26/10	Friday	0.26
2/27/10	Saturday	0.10
3/2/10	Tuesday	0.40
3/3/10	Wednesday	0.88
3/10/10	Wednesday	0.11
3/12/10	Friday	0.46
3/30/10	Tuesday	0.30
3/31/10	Wednesday	0.18
4/4/10	Sunday	0.61
4/5/10	Monday	0.32
4/11/10	Sunday	0.60
4/12/10	Monday	0.72
4/20/10	Tuesday	0.76
4/21/10	Wednesday	0.15
5/25/10	Tuesday	0.35
5/26/10	Wednesday	0.24
5/27/10	Thursday	0.35
6/25/10	Friday	0.13
10/3/10	Sunday	0.13
10/5/10	Tuesday	0.12
10/22/10	Friday	0.14
10/23/10	Saturday	0.24
10/24/10	Sunday	0.54
10/30/10	Saturday	0.12
11/7/10	Sunday	0.53
11/19/10	Friday	0.35
11/20/10	Saturday	0.74
11/21/10	Sunday	0.37
11/23/10	Tuesday	0.67
11/27/10	Saturday	0.63
12/5/10	Sunday	0.43
12/8/10	Wednesday	0.11
12/14/10	Tuesday	0.41
12/17/10	Friday	0.79
12/18/10	Saturday	0.44
12/19/10	Sunday	0.63

Date	Day of Week	Rain
12/20/10	Monday	0.22
12/22/10	Wednesday	0.31
12/25/10	Friday	0.62
12/28/10	Monday	1.09
12/29/10	Tuesday	0.30
1/1/11	Saturday	0.68
1/2/11	Sunday	0.68
1/30/11	Sunday	0.29
2/16/11	Wednesday	0.42
2/17/11	Thursday	0.84
2/18/11	Friday	0.87
2/19/11	Saturday	0.12
2/24/11	Thursday	0.14
2/25/11	Friday	0.65
3/2/11	Wednesday	0.25
3/6/11	Sunday	0.22
3/16/11	Wednesday	0.15
3/18/11	Friday	0.46
3/20/11	Sunday	1.32
3/21/11	Monday	0.21
3/23/11	Wednesday	0.16
3/24/11	Thursday	0.89
3/26/11	Saturday	0.59
5/15/11	Sunday	0.35
6/4/11	Saturday	0.40
6/5/11	Sunday	0.50
6/28/11	Tuesday	0.27
10/5/11	Wednesday	0.83
11/5/11	Saturday	0.24
11/11/11	Friday	0.14
11/20/11	Monday	0.15
12/15/11	Thursday	0.12
1/20/12	Friday	0.47
1/21/12	Saturday	0.30
1/23/12	Monday	0.34
2/13/12	Monday	0.37
2/15/12	Wednesday	0.15
2/29/12	Wednesday	0.47
3/13/12	Tuesday	0.21
3/14/12	Wednesday	0.50

Date	Day of Week	Rain
3/16/12	Friday	0.67
3/17/12	Saturday	0.34
3/25/12	Sunday	0.39
3/27/12	Tuesday	0.10
3/31/12	Saturday	0.30
4/11/12	Wednesday	0.64
4/12/12	Thursday	0.26
4/13/12	Friday	0.81
4/25/12	Wednesday	0.25
6/4/12	Monday	0.21
10/22/12	Monday	0.14
11/1/12	Thursday	0.10
11/9/12	Friday	0.19
11/18/12	Sunday	0.41
11/21/12	Wednesday	0.11
11/28/12	Wednesday	0.32
11/30/12	Friday	0.83
12/1/12	Saturday	0.30
12/2/12	Sunday	0.66
12/5/12	Wednesday	0.46
12/12/12	Wednesday	0.19
12/17/12	Monday	0.32
12/22/12	Saturday	0.71
12/23/12	Sunday	1.00
12/25/12	Tuesday	0.34
12/26/12	Wednesday	0.10
1/5/13	Saturday	0.50
1/6/13	Sunday	0.52
2/19/13	Tuesday	0.42
3/31/13	Sunday	0.55
4/4/13	Thursday	0.37
9/21/13	Saturday	0.24
11/19/13	Tuesday	0.15
11/20/13	Wednesday	0.76
12/7/13	Saturday	0.11
1/30/14	Thursday	0.36
1/31/14	Friday	0.11
2/6/14	Thursday	0.20
2/7/14	Friday	0.23
2/8/14	Saturday	0.23

Date	Day of Week	Rain
2/9/14	Sunday	0.18
2/26/14	Wednesday	0.55
2/28/14	Friday	1.40
3/3/14	Monday	0.30
3/10/14	Monday	0.11
3/26/14	Wednesday	0.71
3/29/14	Saturday	0.61
4/1/14	Tuesday	0.50
4/25/14	Friday	0.25
9/25/14	Thursday	0.16
10/25/14	Saturday	0.12
10/31/14	Friday	0.70
11/13/14	Thursday	0.37
11/29/14	Saturday	0.33
11/30/14	Sunday	0.39
12/2/14	Tuesday	0.69
12/3/14	Wednesday	0.24
12/11/14	Thursday	2.30
12/12/14	Friday	0.45
12/15/14	Monday	0.53
12/16/14	Tuesday	0.27
12/19/14	Friday	0.23
12/20/14	Saturday	0.31
Total Number of Rain Days		143

